



04-27-W

AF

IN THE UNITED STATES PATENT OFFICE

Patent application of David Huddleston
Pub.No. US 2005/0161352 A1
Serial No. 10/765,501
Filed 1/26/2004
"Flared Opening Drawstring closure Cell
Phone Carrier"

Before the Board of Appeals
On Appeal

This document and enclosures will be sent by Express Mail on Monday 4/26/2010

Hon. Commissioner of Patents,
Washington, D.C.

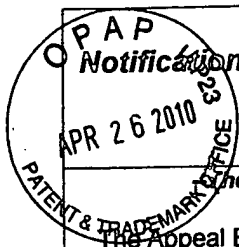
Sir,

This transmittal is in response to a Notification of Non-Compliant Appeal Brief (37 CFR 41.37), in regard to patent application serial No. 10/765,501 filed 1/26/2004 by David E. Huddleston. Said notification was dated 3/24/2010. For reference a copy of the notification is included in this transmittal. The defect noted was an inconsistency between the latest version of the Appeal Brief and a previous version of the Appeal Brief, with regard to the status of claims 2, 9, 12 and 19.

The applicant hereby states that the latest version of the Appeal Brief is correct in listing claims 2, 9, 12, and 19 as cancelled.

Respectfully,
David E. Huddleston
President, IMHUDCO, LLC

 4/25/10



**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/765,501

Applicant(s)

HUDDLESTON, DAVID EUGENE

Examiner

Luan K. Bui

Art Unit

3728

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 13 February 2010 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Claims 1-5, 7, 9, 11-17 and 19 were pending in the amendments filed on 12/1/2005 and in the Appeal Brief filed on 8/21/2006 prior of receiving the Examiner's Answer. However, the Appeal briefs filed on 2/25/2008 and 2/13/2010 indicated that claims 2, 9, 12 and 19 had been canceled which are not consistent with the claims in the amendments filed on 12/1/2005 and the Appeal Brief filed on 8/21/2006. Applicant is required to clarify whether claims 2, 9, 12 and 19 are pending or canceled. If claims 2, 9, 12 and 19 are pending then Applicant is required to provide a new Appeal Brief with claims 2, 9, 12 and 19 must be included in the "Summary of claimed subject matter" and the "Claims appendix".

/Luan K. Bui/
Primary Examiner, Art Unit 3728